**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE M.N.KRISHNAN**

**FRIDAY, THE 2ND FEBRUARY 2007 / 13TH MAGHA 1928**

**WP(C).No. 3361 of 2007(A)**
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**OS.83/2001 of SUB COURT,KATTAPPANA**
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**PETITIONER:**
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**K.G.KRISHNAN KUTTY, S/O. LATE GOPALAN,**
**AGED 59 YEARS, KODITHOTTATHIL HOUSE,**
**KATTAPPANA VILLAGE, VELLAYAMKUDY KARA.**

**BY ADV. SRI.GEORGE MATHEW**
**SRI.A.V.TELLES**

**RESPONDENTS:**
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1. **V.J.THOMAS, S/O. JOSEPH,**
**VELIKULATHU HOUSE, AYYAPPANCOIL VILLAGE,**
**THONITHANDU KARA.**

2. **M.D.JOSEPH, S/O. DEVASIA,**
**MUTHUPLACKAL HOUSE, AYYAPPANCOIL VILLAGE,**
**MATUKATTA KARA.**

3. **O.V.YOHANNAN, S/O. DEVASIA,**
**PERAMPANACHY HOUSE, PONNARATHAN PARAPPU KARA,**
**AYYAPPANCOIL VILLAGE.**

4. **ALANTY P. JOHN, S/O. O.V.YOHANNAN,**
**PERUMPANACHY HOUSE, PONNARATHAN, PARAPPU KARA,**
**AYYAPPANCOIL VILLAGE.**

5. **V.A.JOSEPH, S/O. AUGUSTHY,**
**VADAKKEDATHU HOUSE, MATTUKKATTA KARA,**
**AYYAPPANCOIL VILLAGE.**

6. **MARYKUTTY, W/O. JOSEPH,**
**VADAKKEDATHU HOUSE, MATTUKATTA KARA,**
**AYYAPPANCOIL VILLAGE.**

**7. K.M.VARKEY, S/O. ABRAHAM,**
**KOLLAMPARAMBIL HOUSE, MATTUKKATTA KARA,**
**AYYAPPANCOIL VILLAGE.**

**BY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**M.N. KRISHNAN, J.**

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**W.P.C. NO. 3361 OF 2007**

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**Dated this the 2nd day of February, 2007.**

**J U D G M E N T**

This writ petition is filed to quash Ext.P1 and also to issue directions to the Court below to allow E.A.285/06 in E.P.53/04. The writ petitioner is the judgment debtor in O.S.83/01 of the Sub Court, Kattappana. There is a decree against him for realisation of an amount of Rs.9,66,500/-. It is contended by him that his business had failed and therefore he has filed an application to declare him as insolvent under the provisions of the Insolvency Act. It is submitted that the said insolvency petition was dismissed for default and an application for restoration of the same is pending before the very same Court. The apprehension now is to the effect that the trial court is proceeding with the execution proceedings for realisation of the amount. It is true that if a person is adjudged as insolvent, certainly he will be entitled to certain rights regarding the realisation of the amount and the amount has to be disbursed in accordance with the provisions contained under the Insolvency Act. The learned

counsel would submit that he has immediately filed an application for restoration and it is pending.

2. Therefore, the writ petition is disposed of directing the Sub Judge, Kattappana to dispose of the restoration petition pending before it in I.P.1/05 and not to proceed with the execution of the decree in O.S.83/01 till a decision is taken on the restoration application.

**M.N. Krishnan, Judge.**

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